IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

-

WRIT PETITION No. 13698 of 2002

Between:

T. Venkata Ramana, s/o. T.Nagaiah, Occ: Transport Consultant,

R/o. Nagarajupeta Haveli, D.No.4-507/1, Nagarajupeta Old Bus Stand, Kadapa, Kadapa District.

..... PETITIONER

AND

The Commissioner, Kadapa Municipality, Kadapa.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent Municipality in taking steps to demolish the petitioner's house bearing D.No.4-507/1, Haveli, Nagarajupeta, Near to Old Bus Stand, Kadapa, Kadapa District, without giving any notice is illegal, void and opposed to Articles 14, 19, 21 and 300-A of Constitution of India, and consequently to direct the respondent not to demolish the petitioner's house in question without following due process of law.

Counsel for the Petitioner : MR.MUMMANENI SRINIVASA RAO

Counsel for the Respondent : Mr. K.M.Mahender Reddy, SC for Municipality.

The Court made the following :

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ORDER :

The petitioner is a resident of Kadapa District. He seeks a writ of mandamus declaring the action of the respondent in taking steps to demolish the petitioner's house bearing Door No.4-507/1, Haveli, Nagarajupet, Kadapa District, without due process of law, violative of Articles 14, 19, 21 and 300-A of the Constitution of India. This Court, while admitting the writ petition, by order
dated 26-7-2002 made in W.P.M.P.No.17055 of 2002 passed interim orders directing the respondent not to demolish the petitioner's house. The respondent has now moved this Court for vacating the interim order. Though interlocutory applications are listed, the writ petition was heard finally and being disposed of by this order.

It is the case of the respondent that the respondent did not assign Door No.4-507/1 to the petitioner nor granted any permission to the petitioner to construct on the Government land. It is asserted that the petitioner encroached the Government land admeasuring Acs.0-15 in Survey No.6/(B) part and Acs.0-06 in Survey No.7/part by the side of the road leading to Ravindranagar Old Bus Stand and erected a neat roofed shed. The land is meant for traffic island at the junction of the road leading to Ravindranagar and the petitioner tried to encroach the Government land on 20-7-2002. It is also alleged that the petitioner is an anti-social element trying to grab the Government land.

There is a dispute as to the ownership of the land allegedly in possession of the petitioner. If the land occupied by the petitioner forms part of the road or traffic island, nothing prevents the respondent Municipality to evict the petitioner after issuing notice under Section 192 of the Andhra Pradesh Municipalities Act, 1965. The counter is silent as to whether any such action is initiated. If there is a dispute with regard to title, liberty is given to the petitioner to approach the Civil Court for declaration of the title. In this writ petition, the title of the petitioner cannot be decided

and in the absence of any valid document in proof of title, it is presumed that the land is a Government land under the provisions of Section 2 of the Andhra Pradesh Land Encroachment Act, 1905.

The writ petition, with the above observations, is dismissed. The interim order is vacated. No costs.

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(V.V.S. RAO, J.)

13-10-2004.

Msr.

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Commissioner, Kadapa Municipality, Kadapa.

2.2CD copies

HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.13698 of 2002

13-10-2004.

(Msr)